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10/652,342	09/02/2003	Kenji Shimoyama	990342A	1627
23850	7590 12/23/2003		EXAMINER	
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP			JACKSON JR, JEROME	
SUITE 1000		ART UNIT	PAPER NUMBER	
WASHINGTON, DC 20006			2815	

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

### Diffice Action Summary The MAILING DATE of this communication appears on the cover sheet with the correspondence address		Application No.	Applicant(s)				
Jerome Jackson Jr. 2815		10/652,342	SHIMOYAMA ET AL.				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Edemons of time may be available under the provisions of 3° CFR 1.35(a). In no event, however, may a reply be timely filled before the provision of 3° CFR 1.35(a). In no event, however, may a reply be timely filled before the provision of 3° CFR 1.35(a). In no event, however, may a reply be timely filled before the provision of the provision of 3° CFR 1.35(a). In no event, however, may a reply be timely filled before the provision of the provision of 3° CFR 1.35(a). In a control of the provision o	Office Action Summary	Examiner	Art Unit				
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2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-19 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) 1-19 are subject to restriction and/or election requirement. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.35(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. §§ 119 and 120 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some Sol None of: 1 Certified copies of the priority documents have been received in Application No. 3 Copies of the certified copies of the priority documents have been received in Application No. 3 Acplication from the International Bureau (PCT Rule 17.2(a)). *See the attached detailed Office action for a list of the certified copies not received. 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. Altachment(s) 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data	 THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. If the period for reply specified above is less than thirty (30) days, a replif NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). 	136(a). In no event, however, may a reply be ti olly within the statutory minimum of thirty (30) da I will apply and will expire SIX (6) MONTHS fron te, cause the application to become ABANDON	mely filed ys will be considered timely. n the mailing date of this communication. ED (35 U.S.C. § 133).				
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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 16-19, drawn to a process, classified in class 438, subclass 15+.
- II. Claims 1-15, drawn to a device, classified in class 257, subclass 95.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by a materially different process such as using a masking process to form the ridge shaped epitaxial layer.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerome Jackson Jr. whose telephone number is 703 308 4937. The examiner can normally be reached on t-th 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on 703 308 2772. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

jj

JEHOOMEJACKSON PRIMARY EXAMINER